

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the forgoing amendments and the following remarks.

The status of the claims is as follows:

Claims 1-15 – pending and rejected.

Applicant's attorney had a telephone interview with the examiner on May 17, 2006.

The above amended claims were presented to the examiner and applicant's attorney made the remarks and arguments as set out in the body of this response to the examiner. The examiner did not make any commitments or suggestions.

The examiner has rejected claims 1, 2, 6-7, 11, and 13 under 35 U.S.C. §103(a) as unpatentable over U. S. Publication No. 2002/0037751, Nagase, hereafter "the '751 publication" in view of U. S. Patent No. 6,707,924, Okiebisu, hereafter "the '924 patent," and further in view of U. S. Publication No. 2002/0142738, Jambie et al., hereafter "the '738 publication." This rejection is traversed.

None of the three documents cited by the examiner alone or even in combination suggest the device as claimed in the present application. Further as will become apparent, these three documents are also not properly combinable because to do so would require changes to the devices that would change the very devices as disclosed in the documents in a way not permitted under the statute.

The examiner has cited the '751 publication as disclosing a radiotelephone with a central processing unit, a transmit and receive radio circuit with an antenna, a microphone, a front face with a speaker, and a keypad with at least one key. The '751 publication is directed to a radiotelephone device that allows easy silent mode use by providing positive visual feedback to the user as keys are pressed. The '751 document does not disclose the element of the device as claimed that the radiotelephone will dial out a predetermined telephone number when the user presses a key if there is no incoming call. Also, the '751 publication does not disclose a radiotelephone with a necklace to be worn around the neck of a user. The missing elements of the '751 publication are not disclosed or suggested in combination by the '751

publication of the combination of the '751 publication and the other documents cited by the examiner as will be discussed hereinafter.

The examiner has combined the '751 publication with the '924 patent. Applicant disagrees with the examiner's characterization of the '924 patent. There is no disclosure in the '924 patent of a radiotelephone worn around the neck of a user where the microphone or the speaker are on the radiotelephone. The only disclosure of a radiotelephone in the '924 patent is in FIG. 13. FIG. 13 is consistent with the other figures of the '924 patent that relate to music devices or radios. For the devices in the bulk of the disclosure of the '924 patent, the user only listens to sound generated by the device. The only disclosed speakers are the earphones 36, 37. There is not disclosure of a speaker directly on the radio receiver unit 1 or directly on the radiotelephone unit 101. In FIG. 13 the only disclosed microphone 102 is located on cord 11. In addition, as noted by the examiner, the '924 patent fails to disclose the feature of dialing a predetermined number when a key is pressed if there is no incoming call. The combination of the '751 publication and the '924 patent do not disclose all the elements of the invention as claimed and the reconstruction of the devices of the '751 publication and the '924 patent to arrive at the device as claimed would be contrary to the teaching of each of these references, either alone or in combination, and therefore, these two documents are not properly combinable to reject the claims of this application as the examiner has done.

The examiner has cited the '738 publication to provide the admitted deficiency of the combination of the '751 publication and the '924 patent in failing to teach that the pressing of the at least one key when there is no incoming call will place a call to at least one predetermined telephone address. The '738 publication does not inherently disclose this feature as contented by the examiner. The passage cited by the examiner, paragraphs 0056-0057, does not support the proposition for which it is cited by the examiner. These passages merely describe normal dialing of a telephone device. The user can press a series of keys on the keypad to dial a telephone number. There is no disclosure of storing a predetermined number or of dialing that number on a single key press. In other portions of the '738 publication, namely paragraphs 0058 and 0073, it is clear that the disclosure of the '738 publication does not inherently disclose the dialing of a predetermined telephone number on a single key press. Therefore, the '738 publication does not remove the admitted deficiencies

of the ‘751 publication and the ‘924 patent. In addition, the ‘738 publication does not disclose or teach a radiotelephone that interrupts a communication or in-progress call when the user presses a key for a longer duration as recited in Claim 5. The passage cited, paragraph 0035, only discloses a change in mode. This relates to a change from dialing mode to some other function mode. There is no disclosure that this change of mode would interrupt a call in progress as contended by the examiner. With regard to claims 6 and 7, there is no disclosure in any of the references cited of a single key on one face of the device. Contrary to the examiner’s position, the use of a single multifunction key as recited in claim 6 is not disclosed or suggested by any of the three documents and cannot be considered an obvious design choice when to make this change would make significant changes to the functionality of the devices as described in the cited documents. Therefore, this rejection of claims 1, 2, 6-7, 11, and 13 is no longer warranted and should be withdrawn.

The examiner has also rejected claims 3-5 based on the above three combined documents in combination with U. S. Patent No. 6,574,324, Malik, hereafter “the ‘324 patent” under 35 U.S.C. §103(a). This rejection is traversed.

Initially, it is contended that these claims are dependent on either claim 1 or claim 2 that are patentable over the combination of the same three documents cited in combination with the ‘324 patent to reject claims 3-5. Further, the ‘324 patent does not disclose the features of claims 3-5 as contended by the examiner. The ‘324 does not disclose continuing to place calls to a number on a designated list when a key has been pressed and when that predetermined number is busy. Malik is a dial back system to enable a subscriber to allow other people to call that subscriber’s number, identify themselves and then place a call back to the user that initiated the call. There is no disclosure of replacing a call to the predetermined number when that predetermined number is busy. Also, there is no disclosure of the ability of the user to choose among a list of predetermined numbers by pressing a key a designated number of times. It is contended that this feature in combination with the other features is not well known in the art as contended by the examiner. Lastly, the ‘324 patent does not have any disclosure relative to pressing a key for an extended period to interrupt a call. Therefore, the rejection of claims 3-5 under 35 U.S.C. §103(a) as unpatentable over the combination of the

‘751 publication, the ‘924 patent, the ‘738 publication, and the ‘324 patent is not warranted and should be withdrawn.

In the official action, the examiner has also rejected claim 9 under 35 U.S.C. §103(a) based on the ‘751 publication, the ‘924 patent, and the ‘738 publication in view of U.S. Publication No. 2005/0032475, Mauney, et al., hereafter “the ‘475 publication.” This rejection is traversed.

The passages of the ‘475 publication cited by the examiner in the office action do not disclose what the examiner contends they disclose. There is no disclosure in Table 1 on page 15 of a telemonitoring call or any disclosure of how this call is handled. None of the call types identified in table 1 relate in any way to a telemonitoring call where the user is connected to a call at a predetermined address without notification. Also, paragraph 352 does not disclose such a call. Therefore, the continued rejection of claim 9 under 35 U.S.C. §103(a) based on the ‘751 publication, the ‘924 patent, and the ‘738 publication in view of the ‘475 publication is not appropriate and should be withdrawn.

In the official action, the examiner has also rejected claim 10 under 35 U.S.C. §103(a) based on the ‘751 publication, the ‘924 patent, and the ‘738 publication in view of U. S. Patent No. 5,995,589, Cronin, et al., hereafter “the ‘589 patent.” This rejection is traversed.

The ‘589 patent does not remove the deficiencies of the three documents cited against claim 1 upon which claim 10 is ultimately dependent. Further, there is no disclosure of an incoming call to the monitoring unit. The system of the ‘589 patent is directed to a system for use with compatible handsets. At least for this reason, claim 10 is considered patentable and this rejection should be withdrawn.

In the official action, the examiner has also rejected claims 12, and 14-15 under 35 U.S.C. §103(a) based on the ‘751 publication, the ‘924 patent, and the ‘738 publication in view of U. S. Publication No. 2003/0114899, Woods et al., hereafter “the ‘899 publication.” This rejection is traversed.

The ‘899 publication does not remove the inherent weakness of the rejection of claim 1 upon which claims 12, and 14-15 are either directly or indirectly dependent. For at least this reason, it is believed that this rejection is no longer appropriate and therefore should be withdrawn.

Appl. No. 10/602,984
Amdt. dated May 30, 2006
Reply to O.A. of January 31, 2006

It is now believed this application is in condition for allowance. Such action at an early date is requested. If there are small matters that could be clarified to advance allowance, the examiner should call the undersigned.

Reconsideration and allowance of the foregoing claims are respectfully requested.

Deposit Account Authorization

The Commissioner is hereby authorized to charge any deficiency in any amount enclosed or any additional fees which may be required during the pendency of this application under 37 CFR 1.16 or 1.17, except issue fees, to Deposit Account No. 50-1903.

Respectfully submitted,

McCracken & Frank LLP
200 W. Adams
Suite 2150
Chicago, Illinois 60606
(312) 263-4700

By: 
J. William Frank, III
Reg. No: 25,626

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